

TJS

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EUGENE SCALIA,  
SECRETARY OF LABOR,  
UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

HENKELS & MCCOY, INC.,

Defendant.

20 1309

Civil Action No. \_\_\_\_\_

FILED

MAR 06 2020

KATE BARKMAN, Clerk  
By \_\_\_\_\_ Dep. Clerk

COMPLAINT

Plaintiff, Eugene Scalia, Secretary of Labor, United States Department of Labor ("Plaintiff") brings this action to enjoin Henkels & McCoy, Inc., ("Defendant"), from violating the provisions of Sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* ("the Act"), and for a judgment against Defendant in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendant pursuant to the Act and an equal amount due to the employees of Defendant in liquidated damages.

1. Jurisdiction of this action is conferred upon the Court by Section 17 of the Act, 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Defendant Henkels & McCoy, Inc. is a corporation duly incorporated under the laws of the Commonwealth of Pennsylvania, with its headquarters and principal place of business located at 985 Jolly Road, Blue Bell, PA, in Montgomery County within the jurisdiction of this court. Defendant is a national infrastructure design, engineering, and construction firm. Defendant is engaged in the construction of interstate natural gas pipelines and other natural gas

facilities in the Commonwealth of Pennsylvania, Connecticut, Georgia, New York, and West Virginia.

3. The business activities of Defendant, as described herein, are and were related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of Section 3(r) of the Act.

4. Defendant has employed and is employing employees in and about its place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. Defendant's employees construct natural gas pipelines to facilitate the interstate transportation and sale of natural gas. Defendant's employees handle materials, tools, and equipment shipped in interstate commerce. The enterprise has had an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, Defendant's employees are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1)(A) of the Act.

5. Defendant willfully violated the provisions of Sections 7 and 15(a)(2) of the Act by employing its employees in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer than those prescribed in Section 7 of the Act without compensating said employees for employment in excess of the prescribed hours at rates not less than one and one-half times their regular rates. Therefore, Defendant is liable for the payment of unpaid overtime compensation and an equal amount of liquidated damages under Section 16(c) of the Act.

6. During the time period from at least February 14, 2017, through at least February 13, 2019, Defendant failed to compensate certain of its employees employed as Operators and Laborers who worked over 40 hours in a workweek at rates not less than one and one-half times their regular rates. These employees worked, on average, approximately 60 hours per workweek during the relevant time period.

7. Defendant failed to include daily lump sum payments to Operators and Laborers that Defendant labeled as “per diems” as part of these employees’ regular rates when calculating overtime premium pay. These payments ranged between approximately \$20 to \$45 per day, depending on the job site.

8. These payments were not related to any travel or work-related expenses Operators and Laborers actually incurred in furtherance of Defendant’s interests as their employer and properly reimbursable by Defendant. Rather, the lump sum payments labeled as “per diems” were simply additional remuneration that Defendant failed to include in Operators’ and Laborers’ regular rates for purposes of calculating overtime premium pay when they worked in excess of forty hours per workweek.

9. During the time period from at least February 14, 2017, through at least February 13, 2019, Defendant also failed to include daily lump sum payments of approximately \$45 to \$65 to Operators labeled as “truck rental pay” or “Personal Owned Vehicle (POV) Allowance” as part of Operators’ regular rates when calculating overtime premium pay. Operators worked, on average, approximately 60 hours per workweek during the relevant time period.

10. Defendant paid these lump sums to Operators for each day worked, regardless of whether Operators actually used their personally owned vehicles for any work-related purposes.

Defendant paid Operators these lump sums even when Operators did not use their personally owned vehicles.

11. Therefore, despite Defendant's labeling of the payments as "rental" payments, Defendant was not actually renting Operators' personally owned vehicles. These payments had no relation to any work-related travel expenses the employees actually incurred in furtherance of Defendant's interests as their employer and properly reimbursable by Defendant. Rather, these payments were additional remuneration and compensation for services that Defendant failed to include in employees' regular rates for purposes of calculating overtime premium pay when these employees worked in excess of forty hours per workweek.

12. Defendant knew it was obligated to pay its employees one and one-half times their regular rates for hours worked in excess of forty per workweek, and knew it was obligated to include all remuneration in their employees' regular rates of pay when calculating overtime premium pay. Defendants disguised as "per diems" and "trunk rental pay" lump sum payments that in reality had no relation to any work-related expenses, and were therefore additional wages rather than reimbursements. Defendant did not require any receipts or documentation of expenses incurred as a prerequisite to payment. The lump sum payments corresponded only to employees' days worked and job classification. Therefore, at a minimum, Defendant showed reckless disregard toward whether its conduct was prohibited by the Act.

13. Defendant violated the provisions of Sections 11(c) and 15(a)(5) of the Act in that Defendant failed to make, keep, and preserve adequate and accurate records of its employees, which they maintained as prescribed by the regulations issued and found at 29 C.F.R. Part 516.

14. For example, Defendant failed to keep records of the occurrence, amount, and nature of any actual travel or work-related expenses for which it was purportedly reimbursing

employees via the “per diems” and “truck rental pay.” Defendant failed to keep records of when Operators actually used their personally owned vehicles for any work-related purposes.

Defendant failed to keep accurate records of employees’ regular rates of pay for purposes of calculating overtime premium pay by excluding from their regular rates additional compensation labeled as “per diems” and “truck rental pay” or “Personally Owned Vehicle (POV) Allowance” that had no relation to any travel or work-related expenses. Defendant failed to keep accurate records of employees’ overtime premium pay due for workweeks in which employees worked over forty hours by excluding this additional lump sum remuneration from employees’ regular rates that had no relation to any travel or work-related expenses.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendant providing the following relief:

(1) For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendant, its officers, agents, servants, employees, and those persons in active concert or participation with Defendant who receive actual notice of any such judgment, from violating the provisions of Sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and

(2) For judgment pursuant to Section 16(c) of the Act finding Defendant liable for unpaid overtime compensation due to certain of Defendant’s current and former employees listed in the attached Schedule A for the period of at least March 13, 2016, through at least October 28, 2018, and for an equal amount due to certain of Defendant’s current and former employees in liquidated damages. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of Defendant listed in the attached Schedule A for violations prior to March 13, 2016, and continuing after October 28, 2018, and may be owed to

certain current and former employees presently unknown to the Secretary for the period covered by this Complaint; or

(3) In the event liquidated damages are not awarded, for an injunction issued pursuant to Section 17 of the Act restraining Defendant, its officers, agents, employees, and those persons in active concert or participation with Defendant, from withholding the amount of unpaid minimum wages and overtime compensation found due to Defendant's employees and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

Mailing Address:

U.S. Department of Labor  
Office of the Regional Solicitor  
170 S. Independence Mall West  
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**UNITED STATES DEPARTMENT OF LABOR**

Kate S. O'Scannlain  
Solicitor of Labor

Oscar L. Hampton III  
Regional Solicitor

/s/ Brian P. Krier   
Brian P. Krier  
Senior Trial Attorney  
PA ID # 313826

Attorneys for Plaintiff

**SCHEDULE A**

<b>FIRST NAME</b>	<b>LAST NAME</b>
CASSANDRA	ADKINS
DANIEL	ADKINS
LOWELL	ADKINS
RARD	ADKINS
MARLENE	ALFORD
GLENDON	ALLEN
KEVIN	ALLEN
ADAM	ALLS
JOHNNY	BALDWIN
ROSS	BANACH
CURTIS	BARBACCI
JASON	BARNES
MICHAEL	BARON
JASON	BARR
HENRY	BARRY JR
KENNETH	BEATY
DUSTIN	BEAVER
IVAN	BELLOTTA
SHANNON	BELVILLE
JOSEPH	BENDER
STEVEN	BIELLA
JAMES	BIRD
JOSEPH	BIRD
DAVID	BLACKWELL
JAMES	BLOODWORTH II
RICHARD	BOJO JR
DANIEL	BOLT
OSCAR	BONNER JR
CORY	BOWER

JAY	BOYER
SAMUEL	BRANNIGAN
EUGENE	BRICE JR
DANE	BROSIOUS
CHRISTOPHER	BROWN
KELLY	BROWN
BARRINGTON	BROWN JR
JAMES	BRUMFIELD
JOSHUA	BRYANT
LEVI	BRYANT
ANTHONY	BUCCHERI
GARRISON	BURCZY
BENJAMIN	BURDETTE
JOE	BURKHAMER
TERRY	BURNLEY
JOSHUA	BURNS
TERRY	BURNS
THOMAS	CADE
ELIJAH	CANTERBURY
ERIK	CARPENTER
RONALD	CARR
DURAND	CARSON JR
RYAN	CASEY
SEAN	CASEY
JERRY	CHAPMAN
STEPHEN	CHAPMAN
ANDREW	CHEREPANOV
ALEXANDER	CHILDERS
MARK	CHILDERS
MATTHEW	CHIPEGO
MARK	CHUDOBA
ROY	CLARK



JEFFREY	CLENDENIN
RANDALL	COGAR
MICHAEL	COLARUSSO
RICKY	COLBURN, III
LOUIS	COLELLO
LEVI	COLEMAN
RICHARD	COLEMAN
MICHAEL	COLLINS
RONALD	CONLEY
THOMAS	COOL JR
JAMES	COPELAND
TRACEY	CORDIAL
DAVID	CRAIG II
NICHOLAS	CRIPPEN
ISAAC	CROW
WILLIAM	CUMMINGS
ROBBIE	DALTON
KARIN	DAY
JOSHUA	DEEM
DONALD	DEFAZIO
DYLAN	DEGILIO
DAKOTA	DELANEY
LUKE	DERBY
SHELDON	DERCK
CHRISTOPHER	DERWIN
ROBERT	DINGESS
VINCENT	DIPILATO
NICHALOS	DISCIULLO
DAVID	DIXON
KEVIN	DIXON
BRIAN	DOHERTY
CODEY	DONAHUE

WILLIAM	DONAHUE
RAYMOND	DOWNS
JORDAN	DRAKE
JOSHUA	DRAKE
JUSTIN	DRAKE
WARDEN	DRAKE
NED	DRUMHELLER
JEFFREY	DURANTE
HAROLD	EASTHAM
CHRISTOPHER	ELLIOTT
DAVID	ELMORE
SEAN	EMBLETON
MARK	ENGLES
NATHANIEL	ENGLES
JEREMY	EPLING
KEVIN	ERWIN
GREGORY	EVANS
THOMAS	EXETER
DONALD	FETTERMAN
JOHN	FIELDS
BRIAN	FITCH
PAUL	FOLLERT JR
DAVID	FORTIN
JACK	FOUGHT
JOEY	GANDEE
ERNEST	GARLAND
QUIENTON	GARRETT
MICHAEL	GASPER JR
RONALD	GAVRONSKY JR
CHARLES	GIBSON
DAVID	GIBSON
DEREK	GIBSON

STEVEN	GILLETTE
ADAM	GREATHOUSE
WILLIAM	GREATHOUSE
SAMUEL	GRISHABER
RANDY	GUTHRIE
JEREMY	HACKENBERG
JOHN	HACKENBERG
JONATHON	HARMON
JASON	HARRIS
ZEBULON	HARRISON
ROBERT	HASKIN
CARL	HAWKINS
JOSEPH	HEATER
JAMES	HECKROTE
CHANCE	HENSLEY
NOAH	HENSON
COREY	HEPLER
KENNETH	HERON
CARL	HILAND
JONATHAN	HILAND
SCOTT	HILL
CLEMENT	HILS JR
RICHARD	HINCHLIFFE
ANTHONY	HOLDEN
MATTHEW	HOLGATE
DOUGLAS	HOLGATE JR
MATTHEW	HOLLEY
PHILLIP	HOLLEY
CHAD	HONEYWELL
JEREMY	HOOVER
JOSHUA	HOOVER
JASON	HORN

HARRY	HOWARD
ERIC	HUNDLEY
TIMOTHY	HUNT
DAVID	HURTADO
HUNTER	HUYETT
DENNIS	JACKSON
DAVID	JACOBY
TRACY	JARVIS
ANTHONY	JIVIDEN
CLOVIS	JOHNSON
MARLANA	JOHNSON
WILLIAM	JOHNSON
DOUGLAS	JOHNSON JR
JONATHAN	JONES
WILLIAM	JONES
GEORGE	KEATON
MICHAEL	KEATON
DANIEL	KELLEY
BENJAMIN	KERBY, JR
FORREST	KERSTETLER
BRANDON	KILE
JAMES	KILGORE III
COREY	KISER
GLENN	KISER
MICHAEL	KISH
TAYLOR	KISHBAUGH
DONNA	KISKO
MARLIN	KRATZER JR.
PETER	KRISOVITCH
LUKE	KROMPASKY
STEPHEN	KUHL
JOSHUA	KYLE

TRENT	LAMBERT
JOHN	LAWRENCE
DARRELL	LEGG
JAMES	LEMIEUX
MATTHEW	LEMLEY
CASSANDRA	LESHER
EDWARD	LESTER
JACOB	LETT
DUSTIN	LEWIS
LARAMY	LEWIS
JASON	LILLY
DWIGHT	LISICKI
CHARLES	LITTLE
EDWARD	LITTLE
MATTHEW	LITTLE
KEVIN	LIUZZO
JACK	LIVELY
LAURA	LLOYD
SHANIA	LLOYD
TYLER	LONG
JEREMIAH	LOPEZ
MICHAEL	LORSON
TIMOTHY	LUCIBELLO
CODIE	LUKASHEWSKI
GARY	MADDOX
JESSE	MALLETT
JUSTIN	MALONE
RONALD	MARTIN
TIMOTHY	MARTIN
WILLIAM	MARTIN
CHRISTOPHER	MATOUSHEK
JOHN	MCCANN

KENNETH	MCCARTHY
DENVER	MCCOURT
DARREN	MCCOY
WILLIAM	MCDERMITT
SEAN	MCDONALD
RICHARD	MCFADDEN
CALEB	MCGUIRE
WESLEY	MCKINNEY
GLENN	MCLAREN
MICHAEL	MCNEELY
TONYA	MCREYNOLDS
KEVIN	MEADOWS
JOSEPH	MEISSNER
NEIL	METZGAR
JOHNNY	MIDKIFF
KEITH	MILES JR
RYAN	MILK
CHRISTOPHER	MILLER
DARRELL	MILLER
JAMIN	MILLER
DEREK	MITCHELL
ROBERT	MIZOK
BROADDUS	MOORE
BENJAMIN	MORGAN
ZACHARY	MOWERY
TILLMAN	MUCKENFUSS
BRIAN	MURPHY
MATTHEW	MURPHY
NICK	NAZZARO
RYAN	NELSON
BRENT	NETTLES, II
REBECCA	NICHOLS

BRIAN	NUNLEY
CHARLES	NUTTER
JASON	NUTTER
JOHN	O'BRIAN
JOHN	O'BRIEN
KURT	OBRIEN JR
TERRENCE	O'BRIEN JR
ADAM	ODELL
ARLIE	OVERTON
JUSTIN	PALMER
FORREST	PARSONS
JACOB	PARSONS
JOSHUA	PARSONS
BRIAN	PAUL
RONALD	PAULSEN
REBA	PAYTON
KAREN	PEREZ
TERESA	PERRY
SHAWN	PERSINGER
CHARLES	PETTIT
JORDAN	PIERSON
MICHAEL	PINSON
DAKOTA	PITTMAN
DENIS	PLOURDE
TYLER	PRICE
KENNETH	PRIESTLEY
CHAD	RAY
WALTER	RAYBORN
TODD	RAYNES
SHAWN	REED
JOHN	RHODES
RICHARD	RHODES

SKYLER	RHODES
SHANE	RICHART
SHAWN	RICHART
CHAD	ROBERTS
JOSHUA	ROGERS
JOHN	ROMANO
CRAIG	ROSS
JAMES	ROSS
JONATHON	ROSS
KYLAN	ROSS
RICHARD	RUBIO
SHAWN	RUSH
PAUL	SABLITZ
ERIC	SAMANAS
GAREY	SAMOK JR
EDWARD	SCHAEFER
THOMAS	SCHAEFFER
DANIEL	SCHARIEST
WAYNE	SCHWEIGHOFER
CARROLL	SCOTT
DUANE	SCOVILLE
RYAN	SEBASTIAN
JEFFREY	SEXTON
MOLT	SHAHER
SAMUEL	SHAHER
ANDREW	SHAMBLIN
DELMER	SHAMBLIN
FRED	SHAMBLIN
RANDAL	SHELTON
JOHN	SHERIDAN
SHANE	SHERWOOD
JESSE	SIGNORE



ROBERT	SILFEE JR
ALVA	SIZEMORE
DANA	SKELTON
JESSE	SLATER, JR
ADAM	SLOAN
BRANDON	SMITH
CHRISTOPHER	SMITH
DANIEL	SMITH
DARRELL	SMITH
JEFFERY	SMITH
JERRY	SMITH
KELLY	SMITH
MARK	SMITH
RICK	SMITH
STEVEN	SMITH
WAYNE	SMITH
CHARLIE	SONGER
FRANCESCO	SORACE
ROBERT	SORBER
TIMOTHY	SOWARDS
ARTHUR	SPENCER
MOHAMMED	SSEBULIME
EAN	STARCHER
SEAN	STARKOSKI
WILLIAM	STEELE
NICHOLAS	STEVENS
JOSHUA	STIFF
BRADFORD	STONE
JASON	STOVER
TODD	STYER
HEATH	SUTTON
DOUGLAS	TALLMAN JR

ALVIN	TERRY SR
JAN	TERWINT
KURTIS	THAXTON
LESTER	THAXTON
WYATT	THOMAS
ZACHARIAH	THOMAS
MICHAEL	THOMPSON
TIMOTHY	THOMPSON
CHARLES	TIERNEY JR
FRANK	TIRILLO
COURTNEY	TOLOKAN
TIOFILUSI	TONGAMOA
BRAULIO	TORRES
GIL	TOUGAS
ROBERT	TUCKER
BRIDGET	VANCE-SMITH
SERGIO	VEGA-BERMUDEZ
ROBERT	VOYTON
CHEYENNE	WADE
ZACHERY	WARD
JENNIFER	WASHNEY
DAVID	WATKINS
SHAESON	WATSON
SEAN	WEARNE
FRANKLIN	WEARS
BILLY	WEHRLE
TYLER	WELLMAN
DAVID	WENDELL
MORGAN	WESTON
CORIE	WHITE
JOSHUA	WHITE

JUSTIN	WHITE
MICHAEL	WHITE
MORGAN	WHITTINGTON
TYLER	WIDDICK
JAMES	WIGAL
BRADFORD	WILLIAMS
JOSHUA	WILLIAMS
RICHARD	WILLIAMS
ROBERT	WILLIAMS
SETH	WILLIAMS
CHARLES	WILLIAMSON
DANIEL	WILLIS
MATTHEW	WILLIS
ADAM	WILSON
JOHN	WILSON
RICHARD	WOMBACKER
CHRISTOPHER	WOOD
ERIC	WOOD
DAVID	WOODARD
DARRELL	WOOTEN
JAMES	WORKMAN
ROBERT	WRAY
STEVEN	WRIGHT
JOHN	YASHKUS
STEVEN	YOST
MICHAEL	YUHASZ
MICHAEL	YUHASZ JR
MARK	ZABOROWSKI
ARRON	ZERKLE

20-1309

JS 44 (Rev. 09.19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

20 1309

I. (a) PLAINTIFFS

Eugene Scalia, Secretary of Labor, U.S. Department of Labor

DEFENDANTS

Henkels & McCoy, Inc.

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

Montgomery

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brian P. Krier, U.S. Dept. of Labor - Office of the Regional Solicitor, 170 S. Independence Mall West Suite 630E, Philadelphia, PA 19106, (215) 861-5141

Attorneys (If Known)

Jay Glunt, Reed Smith LLP, Reed Smith Centre, 225 Fifth Avenue, Pittsburgh, PA 15222, (412) 288-3131

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF  
Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4  
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)  
The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201, et seq

Brief description of cause

Failure to pay proper overtime premium, failure to keep complete and accurate records of overtime due

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE  
03/06/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

MAR - 6 2020

MAR - 6 2020

**TJS**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**20****1309**

## DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 170 S. INDEPENDENCE MALL WEST SUITE 630E PHILA., PA 19106Address of Defendant: 985 JOLLY ROAD BLUE BELL, PAPlace of Accident, Incident or Transaction: MONTGOMERY COUNTY, PA

## RELATED CASE, IF ANY:

Case Number \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated \_\_\_\_\_

Civil cases are deemed related when Yes is answered to any of the following questions.

- |   |   |                              |  |
|---|---|------------------------------|--|
| 1 | Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2 | Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3 | Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4 | Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☐ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE 03/06/2020\_\_\_\_\_  
Attorney-at-Law / Pro Se Plaintiff\_\_\_\_\_  
Attorney ID # (if applicable)

## CIVIL: (Place a ✓ in one category only)

## A. Federal Question Cases:

- ☐ 1 Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2 FELA
- ☐ 3 Jones Act-Personal Injury
- ☐ 4 Antitrust
- ☐ 5 Patent
- ☐ 6 Labor-Management Relations
- ☐ 7 Civil Rights
- ☐ 8 Habeas Corpus
- ☐ 9 Securities Act(s) Cases
- ☐ 10 Social Security Review Cases
- ☒ 11 All other Federal Question Cases (Please specify) FLSA

## B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2 Airplane Personal Injury
- ☐ 3 Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6 Other Personal Injury (Please specify) \_\_\_\_\_
- ☐ 7 Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9 All other Diversity Cases (Please specify) \_\_\_\_\_

## ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, BRIAN P. KRIER, counsel of record or pro se plaintiff, do hereby certify☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.☒ Relief other than monetary damages is sought.DATE 03/06/2020\_\_\_\_\_  
Attorney-at-Law / Pro Se Plaintiff\_\_\_\_\_  
Attorney ID # (if applicable)

NOTE A trial de novo will be a trial by jury only if there has been compliance with F R C P 38



**TJS**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORMEugene Scalia, Secretary of Labor, U.S.  
Department of Labor

v.

Henkels &amp; McCoy, Inc.

CIVIL ACTION

**20****1309**

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases ) ( )
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

03/06/2020

Brian P. Krier

Plaintiff

Date

Attorney-at-law

Attorney for

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(Civ. 660) 10/02

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